

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 720

Introduced by Assembly Member Caballero

February 26, 2009

An act to amend Section 65583.1 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 720, as amended, Caballero. Land use: housing element.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that analyzes existing and projected housing needs and includes a statement of goals, quantified objectives, policies, financial resources, and scheduled programs for the maintenance, preservation, improvement, and development of housing. The housing element is required to identify the existing and projected housing needs of all economic segments of the community. The Department of Housing and Community Development is authorized to allow a city, county, or city and county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category in its housing element, as specified, when the community includes in its housing element a program committing the local government to provide units in that income category within the city, county, or city and county that will be made available through the provision of committed assistance during the planning period covered by the housing element to low- and very low income households at affordable housing costs or affordable rents, as defined. *Units that are to be substantially*

rehabilitated with committed assistance from the city, county, or city and county and constitute a net increase in the community's housing stock may be included in the aforementioned housing element program, if the units meet certain criteria. Existing law defines various terms for use of these provisions.

~~This bill would authorize any a city or, county, or city and county that uses funding from its Low and Moderate Income Housing Fund within a redevelopment project area for purposes of substantially rehabilitating a unit to count the unit towards meeting its share of the regional housing need for affordable housing, as defined, for low-, very low, or extremely low income households to include weatherization and energy efficiency improvements as part of its efforts to substantially rehabilitate a unit, and modify the definition of "committed assistance" for purposes of specified provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65583.1 of the Government Code is
- 2 amended to read:
- 3 ~~65583.1. (a) The Department of Housing and Community~~
- 4 *65583.1. (a) For purposes of this section, a city, county, or*
- 5 *city and county may include weatherization and energy efficiency*
- 6 *improvements as part of its efforts to substantially rehabilitate a*
- 7 *unit. This may include energy efficiency measures that encompass*
- 8 *the building envelope, its heating and cooling systems, and its*
- 9 *electrical system.*
- 10 *(b) The Department of Housing and Community Development,*
- 11 *in evaluating a proposed or adopted housing element for substantial*
- 12 *compliance with this article, may allow a city or county to identify*
- 13 *adequate sites, as required pursuant to Section 65583, by a variety*
- 14 *of methods, including, but not limited to, redesignation of property*
- 15 *to a more intense land use category and increasing the density*
- 16 *allowed within one or more categories. The department may also*
- 17 *allow a city or county to identify sites for second units based on*
- 18 *the number of second units developed in the prior housing element*
- 19 *planning period whether or not the units are permitted by right,*
- 20 *the need for these units in the community, the resources or*
- 21 *incentives available for their development, and any other relevant*

1 factors, as determined by the department. Nothing in this section
2 reduces the responsibility of a city or county to identify, by income
3 category, the total number of sites for residential development as
4 required by this article.

5 ~~(b)~~

6 (c) Sites that contain permanent housing units located on a
7 military base undergoing closure or conversion as a result of action
8 pursuant to the Defense Authorization Amendments and Base
9 Closure and Realignment Act (Public Law 100-526), the Defense
10 Base Closure and Realignment Act of 1990 (Public Law 101-510),
11 or any subsequent act requiring the closure or conversion of a
12 military base may be identified as an adequate site if the housing
13 element demonstrates that the housing units will be available for
14 occupancy by households within the planning period of the
15 element. No sites containing housing units scheduled or planned
16 for demolition or conversion to nonresidential uses shall qualify
17 as an adequate site.

18 Any city, city and county, or county using this subdivision shall
19 address the progress in meeting this section in the reports provided
20 pursuant to paragraph (1) of subdivision (b) of Section 65400.

21 ~~(e)~~

22 (d) (1) The Department of Housing and Community
23 Development may allow a city or county to substitute the provision
24 of units for up to 25 percent of the community's obligation to
25 identify adequate sites for any income category in its housing
26 element pursuant to paragraph (1) of subdivision (c) of Section
27 65583 where the community includes in its housing element a
28 program committing the local government to provide units in that
29 income category within the city or county that will be made
30 available through the provision of committed assistance during
31 the planning period covered by the element to low- and very low
32 income households at affordable housing costs or affordable rents,
33 as defined in Sections 50052.5 and 50053 of the Health and Safety
34 Code, and that meet the requirements of paragraph (2). Except as
35 otherwise provided in this subdivision, the community may
36 substitute one dwelling unit for one dwelling unit site in the
37 applicable income category. The program shall do all of the
38 following:

1 (A) Identify the specific, existing sources of committed
2 assistance and dedicate a specific portion of the funds from those
3 sources to the provision of housing pursuant to this subdivision.

4 (B) Indicate the number of units that will be provided to both
5 low- and very low income households and demonstrate that the
6 amount of dedicated funds is sufficient to develop the units at
7 affordable housing costs or affordable rents.

8 (C) Demonstrate that the units meet the requirements of
9 paragraph (2).

10 (2) Only units that comply with subparagraph (A), (B), or (C)
11 qualify for inclusion in the housing element program described in
12 paragraph (1), as follows:

13 (A) Units that are to be substantially rehabilitated with
14 committed assistance from the city or county and constitute a net
15 increase in the community's stock of housing affordable to low-
16 and very low income households. For purposes of this
17 subparagraph, a unit is not eligible to be "substantially
18 rehabilitated" unless all of the following requirements are met:

19 (i) At the time the unit is identified for substantial rehabilitation,
20 (I) the local government has determined that the unit is at imminent
21 risk of loss to the housing stock, (II) the local government has
22 committed to provide relocation assistance pursuant to Chapter 16
23 (commencing with Section 7260) of Division 7 of Title 1 to any
24 occupants temporarily or permanently displaced by the
25 rehabilitation or code enforcement activity, or the relocation is
26 otherwise provided prior to displacement either as a condition of
27 receivership, or provided by the property owner or the local
28 government pursuant to Article 2.5 (commencing with Section
29 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and
30 Safety Code, or as otherwise provided by local ordinance; provided
31 the assistance includes not less than the equivalent of four months'
32 rent and moving expenses and comparable replacement housing
33 consistent with the moving expenses and comparable replacement
34 housing required pursuant to Section 7260, (III) the local
35 government requires that any displaced occupants will have the
36 right to reoccupy the rehabilitated units, and (IV) the unit has been
37 found by the local government or a court to be unfit for human
38 habitation due to the existence of at least four violations of the
39 conditions listed in subdivisions (a) to (g), inclusive, of Section
40 17995.3 of the Health and Safety Code.

1 (ii) The rehabilitated unit will have long-term affordability
2 covenants and restrictions that require the unit to be available to,
3 and occupied by, persons or families of low- or very low income
4 at affordable housing costs for at least 20 years or the time period
5 required by any applicable federal or state law or regulation.

6 (iii) Prior to initial occupancy after rehabilitation, the local code
7 enforcement agency shall issue a certificate of occupancy indicating
8 compliance with all applicable state and local building code and
9 health and safety code requirements.

10 (B) Units that are located in a multifamily rental housing
11 complex of four or more units, are converted with committed
12 assistance from the city or county from nonaffordable to affordable
13 by acquisition of the unit or the purchase of affordability covenants
14 and restrictions for the unit, are not acquired by eminent domain,
15 and constitute a net increase in the community's stock of housing
16 affordable to low- and very low income households. For purposes
17 of this subparagraph, a unit is not converted by acquisition or the
18 purchase of affordability covenants unless all of the following
19 occur:

20 (i) The unit is made available at a cost affordable to low- or
21 very low income households.

22 (ii) At the time the unit is identified for acquisition, the unit is
23 not available at an affordable housing cost to either of the
24 following:

25 (I) Low-income households, if the unit will be made affordable
26 to low-income households.

27 (II) Very low income households, if the unit will be made
28 affordable to very low income households.

29 (iii) At the time the unit is identified for acquisition the unit is
30 not occupied by low- or very low income households or if the
31 acquired unit is occupied, the local government has committed to
32 provide relocation assistance prior to displacement, if any, pursuant
33 to Chapter 16 (commencing with Section 7260) of Division 7 of
34 Title 1 to any occupants displaced by the conversion, or the
35 relocation is otherwise provided prior to displacement; provided
36 the assistance includes not less than the equivalent of four months'
37 rent and moving expenses and comparable replacement housing
38 consistent with the moving expenses and comparable replacement
39 housing required pursuant to Section 7260.

1 (iv) The unit is in decent, safe, and sanitary condition at the
2 time of occupancy.

3 (v) The unit has long-term affordability covenants and
4 restrictions that require the unit to be affordable to persons of low-
5 or very low income for not less than 55 years.

6 (C) Units that will be preserved at affordable housing costs to
7 persons or families of low- or very low incomes with committed
8 assistance from the city or county by acquisition of the unit or the
9 purchase of affordability covenants for the unit. For purposes of
10 this subparagraph, a unit shall not be deemed preserved unless all
11 of the following occur:

12 (i) The unit has long-term affordability covenants and
13 restrictions that require the unit to be affordable to and reserved
14 for occupancy by persons of the same or lower income group as
15 the current occupants for a period of at least 40 years.

16 (ii) The unit is within an “assisted housing development,” as
17 defined in paragraph (3) of subdivision (a) of Section 65863.10.

18 (iii) The city or county finds, after a public hearing, that the unit
19 is eligible, and is reasonably expected, to change from housing
20 affordable to low- and very low income households to any other
21 use during the next five years due to termination of subsidy
22 contracts, mortgage prepayment, or expiration of restrictions on
23 use.

24 (iv) The unit is in decent, safe, and sanitary condition at the
25 time of occupancy.

26 (v) At the time the unit is identified for preservation it is
27 available at affordable cost to persons or families of low- or very
28 low income.

29 (3) This subdivision does not apply to any city or county that,
30 during the current or immediately prior planning period, as defined
31 by Section 65588, has not met any of its share of the regional need
32 for affordable housing, as defined in Section 65584, for low- and
33 very low income households. A city or county shall document for
34 any housing unit that a building permit has been issued and all
35 development and permit fees have been paid or the unit is eligible
36 to be lawfully occupied.

37 ~~(4) Notwithstanding paragraph (3), any city or county that uses~~
38 ~~funding from its Low and Moderate Income Housing Fund,~~
39 ~~pursuant to Section 33334.3 of the Health and Safety Code, within~~
40 ~~a redevelopment project area, as defined in Section 33320.1 of the~~

1 ~~Health and Safety Code, for purposes of substantially rehabilitating~~
2 ~~a unit, as specified in subparagraph (A) of paragraph (2), may~~
3 ~~count the unit towards meeting its share of the regional housing~~
4 ~~need for affordable housing, as defined in Section 65584, for low-,~~
5 ~~very low, or extremely low income households.~~

6 ~~(5)~~

7 (4) For purposes of this subdivision, “committed assistance”
8 means that the city or county enters into a legally enforceable
9 agreement during the ~~first two years of the housing element~~
10 ~~planning period that obligates sufficient available funds to provide~~
11 ~~the assistance necessary to make the identified units affordable~~
12 ~~and that requires that the units be made available for occupancy~~
13 ~~within two years of the execution of the agreement. “Committed~~
14 ~~assistance” does not include tenant-based rental assistance.~~

15 ~~(6)~~

16 (5) For purposes of this subdivision, “net increase” includes
17 only housing units provided committed assistance pursuant to
18 subparagraph (A) or (B) of paragraph (2) in the current planning
19 period, as defined in Section 65588, that were not provided
20 committed assistance in the immediately prior planning period.

21 ~~(7)~~

22 (6) For purposes of this subdivision, “the time the unit is
23 identified” means the earliest time when any city or county agent,
24 acting on behalf of a public entity, has proposed in writing or has
25 proposed orally or in writing to the property owner, that the unit
26 be considered for substantial rehabilitation, acquisition, or
27 preservation.

28 ~~(8)~~

29 (7) On July 1 of the third year of the planning period, as defined
30 by Section 65588, in the report required pursuant to Section 65400,
31 each city or county that has included in its housing element a
32 program to provide units pursuant to subparagraph (A), (B), or (C)
33 of paragraph (2) shall report in writing to the legislative body, and
34 to the department within 30 days of making its report to the
35 legislative body, on its progress in providing units pursuant to this
36 subdivision. The report shall identify the specific units for which
37 committed assistance has been provided or that have been made
38 available to low- and very low income households, and it shall
39 adequately document how each unit complies with this subdivision.
40 If, by July 1 of the third year of the planning period, the city or

1 county has not entered into an enforceable agreement of committed
 2 assistance for all units specified in the programs adopted pursuant
 3 to subparagraph (A), (B), or (C) of paragraph (2), the city or county
 4 shall, not later than July 1 of the fourth year of the planning period,
 5 adopt an amended housing element in accordance with Section
 6 65585, identifying additional adequate sites pursuant to paragraph
 7 (1) of subdivision (c) of Section 65583 sufficient to accommodate
 8 the number of units for which committed assistance was not
 9 provided. If a city or county does not amend its housing element
 10 to identify adequate sites to address any shortfall, or fails to
 11 complete the rehabilitation, acquisition, purchase of affordability
 12 covenants, or the preservation of any housing unit within two years
 13 after committed assistance was provided to that unit, it shall be
 14 prohibited from identifying units pursuant to subparagraph (A),
 15 (B), or (C) of paragraph (2) in the housing element that it adopts
 16 for the next planning period, as defined in Section 65588, above
 17 the number of units actually provided or preserved due to
 18 committed assistance.

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21 **CORRECTIONS:**

22 **Text—Page 7.**

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